

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2151 OF

Rajan Jitendra Mehra ..Petitioner.

V/s.

Industrial Development Bank
of India and Anr. ..Respondents.

Shri Amol V. Doijode for the Petitioner.
Shri K.V. Saste, APP for Respondent No.2 State.

CORAM : A.M.KHANWILKAR, J.
DATED : DECEMBER 17, 2004

PC :-

. Heard counsel for the parties.

. The only argument canvassed before this court is that the criminal action instituted against the petitioner was barred by limitation. The argument is that the Banker's issued advise on December 27, 1995, which ought to be the date of dishonour, requiring the complainant to issue statutory notice within 15 days from the said date. Whereas, the notice is issued on January 15, 1996. There is no substance in this argument. The complaint in para -4 clearly records that the advise was received by the complainant on January 2, 1996. For the time being that assertion

will have to be accepted as it is. If this is so, the statutory notice sent on January 15, 1996 will be within limitation. The argument, however, is that no record is produced before the trial court to justify the stand taken that the notice was actually sent on January 15, 1996. The complainant has stated on verification about the said fact, which is asserted in the complaint. For the present, that was sufficient to initiate action and therefore, no fault can be found with the trial court for having issued the process against the petitioner. Accordingly, in my opinion, this is not a fit case for quashing. The question whether the criminal action is barred by limitation, being mixed questions of fact and law, will have to be decided at the trial when the parties will let in evidence to support their respective case. Hence, rejected with the above observations.

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